



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FWP/168512

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 8, 2015, under Wis. Admin. Code § HA 3.03(4), to review a decision by the Dane County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on October 1, 2015.

The issue for determination is whether it was correct to end petitioner's FS effective September 1, 2015.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

BY: [REDACTED], ESS  
Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County, Wisconsin.

2. On April 11, 2015 petitioner was sent an Able-Bodied Adults without Dependents ["ABAWD"] informational mailing.
3. On April 29, 2015 petitioner completed an FS renewal; petitioner reported that he was homeless and used his girlfriend's address for mailing purposes; work requirements were discussed and ABAWD exemptions reviewed; petitioner not ABAWD exempt; petitioner put into ABAWD status.
4. On April 30, 2015 FS Employment and Training program ["FSET"] referral letter was sent to petitioner.
5. On May 15, 2015 petitioner failed to attend FSET orientation; FSET orientation rescheduled to June 12, 2015 and letter was sent to petitioner.
6. On June 12, 2015 petitioner again failed to attend FSET orientation.
7. On June 24, 2015 made 2 telephone calls to the FSET call center about activities.
8. On August 4, 2015 petitioner appeared at the County offices and asked for the FSET telephone phone number; petitioner was given the FSET scheduler telephone number as well as the FSET Team Lead telephone number and was advised to telephone FSET as soon as possible as August 2015 was his 3<sup>rd</sup> Time-Limited Benefit ["TLB"] month.
9. On August 7, 2015 petitioner again appeared at the County offices and stated that he had been trying to get in contact with FSET; petitioner was again provided FSET telephone number.
10. An *About Your Benefits* notice dated August 19, 2015 was sent to petitioner informing him that his FS would end on September 1, 2015 because: "You have used 3 months of time-limited benefits without meeting a work requirement during those 3 months."
11. On August 31, 2015 petitioner called to reschedule his orientation and was told that he was FS ineligible.
12. During the time period April 2015 to August 2015 mail was sent by the County to petitioner at his girlfriend's address as requested by petitioner during his April 29, 2015 renewal; none of the mail was returned to the County.

### DISCUSSION

Able-Bodied Adults without Dependents ["ABAWD"]<sup>1</sup> must either meet the ABAWD work requirement or an exemption from the work requirement in order to continue to receive FS. Non-exempt ABAWDs who do not meet the work requirement will only be allowed to receive up to 3 full months of Time-Limited Benefits ["TLB"] in a 36-month time period.<sup>2</sup> *FoodShare Wisconsin Handbook* ["FWH"] 3.17.1.1.; See also, Wis. Stat. § 49.79(10)(a) (2013-14); 7 C.F.R. §§ 273.7 & 273.24 (2015).

An FS member is determined an exempt ABAWD if he or she is an ABAWD who meets at least one of the following criteria, as determined by the Income Maintenance ["IM"] agency:

- Determined unfit for employment, which includes someone who is:

<sup>1</sup> An FS applicant or member is determined a **non**-ABAWD if he or she meets any one of the following criteria, as determined by the Income Maintenance ["IM"] agency: under age 18 or age 50 and older; unable to work; residing in a FS household with a child under age 18; or, pregnant. *FoodShare Wisconsin Handbook* ["FWH"] 3.17.1.4.

<sup>2</sup> ABAWD eligibility for FS is limited to three (3) months of Time-Limited FS Benefits ["TLB"] in a 36-month period in which the ABAWD is subject to, but is not complying with, the ABAWD work requirement and does not have a qualifying exemption. The three TLB months do not have to be consecutive. FWH 3.17.1.9.

- Receiving temporary or permanent disability benefits from the government or a private source;
- Mentally or physically unable to work, as determined by the IM agency;
- Verified as unable to work by a statement from a health care professional or a social worker.
- Receiving Unemployment Compensation [“UC”] or has applied for UC and is complying with UC work requirements;
- Regularly participating in an Alcohol or Other Drug Abuse [“AODA”] treatment or rehabilitation program;
- A student of higher education who is otherwise eligible for FS;
- A high school student 18 years of age or older, attending high school at least half-time;
- Primary caregiver of a dependent child under age 6 or an incapacitated person;
- Receiving transitional FS benefits; or,
- Meeting the ABAWD work requirement outside of the FS Employment and Training program [“FSET”] through work and/or other allowable work program participation.

FWH 3.17.1.5.

An ABAWD is considered to be meeting the ABAWD work requirement if one of the following applies:

1. Working a minimum of 80 hours per month (use converted work hours if paid weekly or bi-weekly);
2. Participating and complying with an allowable work program at least 80 hours per month (allowable work programs include FSET, Refugee Employment and Training, Wisconsin Works [“W-2”], Children First, Workforce Investment Act [“WIA”] programs, Refugee Cash Assistance programs, and programs under section 236 of the Trade Act);
3. Both working and participating in an allowable work program for a combined total of at least 80 hours per month; or,
4. Participating and complying with the requirements of a workfare program.

FWH 3.17.1.8.

Petitioner does not deny that he did not meet the work requirement for 3 months and has used-up all of his 3 full months of TLB. However, petitioner argues that he was trying to get a job but has a criminal record makes it hard. This may be true but getting a job is only 1 way to meet the ABAWD work requirement -- another was is participating and complying with an allowable work program at least 80 hours per month.

Petitioner also argues that he telephoned FSET but his telephone calls were not returned. Even if that is correct it does not explain why he failed to attend orientation on both May 15, 2015 and June 12, 2015.

Finally, petitioner stated that he moved -- but his move was not reported to the County until September 8, 2015. During the time period April 2015 to August 2015 mail was sent by the County to petitioner at his girlfriend’s address as requested by petitioner during his April 29, 2015 renewal. None of the mail was returned to the County.

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct to end petitioner's FS effective September 1, 2015.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby DISMISSED.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

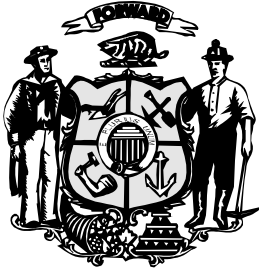
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 5th day of October, 2015

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\sSean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 5, 2015.

Dane County Department of Human Services  
Division of Health Care Access and Accountability